

**IN THE COURT OF APPEALS  
FIRST APPELLATE DISTRICT OF OHIO  
HAMILTON COUNTY, OHIO**

STATE OF OHIO,	:	APPEAL NOS. C-070414
		C-070415
Plaintiff-Appellee,	:	
		TRIAL NOS. B-9705508
vs.	:	B-9903838
WILLIAM SATTERFIELD,	:	<i>JUDGMENT ENTRY.</i>
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.<sup>1</sup>

In 1999, William Satterfield was convicted of felonious assault in the case numbered B-09903838. He was also convicted of violating the terms of his community control in the case numbered B-09705508. Satterfield was sentenced to eight years in prison for the felonious assault, to be served consecutively to an eleven-month term of imprisonment for the community-control violation. The trial court failed to sentence Satterfield to post-release control in both cases. As a result, in May 2007, the trial court ordered that Satterfield, who was still serving his prison sentence, be returned to the trial court for resentencing.

At the new sentencing hearing, the trial court sentenced Satterfield to the same prison term that it had originally imposed, as well as to a mandatory three-year term of

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<sup>1</sup> See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

post-release control. Satterfield now appeals from the trial court's judgment, raising three assignments of error for our review.

In his first assignment of error, Satterfield argues that his sentence was final in 1999 and that any subsequent modification was barred by the doctrine of res judicata. We reject this assignment of error on the authority of *State v. Simpkins*.<sup>2</sup>

Satterfield raises several constitutional challenges in his second assignment of error. First, he alleges that his constitutional rights were violated because the Adult Parole Authority ("APA") requested the resentencing in the first instance by notifying the trial court of its failure to impose mandatory post-release control. Satterfield claims that the APA's notification clearly violated the separation-of-powers doctrine and fundamental due process. We disagree.

Under the separation-of-powers doctrine, the APA cannot impose post-release control without authority from the judicial branch of government.<sup>3</sup> But the APA's notification to the court in this case was not tantamount to the imposition of post-release control without a judicial order. Rather, Satterfield's post-release control became effective only after the trial court had ordered resentencing and then imposed post-release control at a de novo sentencing hearing. Thus, the task of resentencing Satterfield fell upon the trial court, and the APA's notification did not violate the separation-of-powers doctrine or due process.

Next, Satterfield contends that the retroactive application of Am.Sub.H.B. No. 137—which includes additions and amendments to the post-release statutes—violates the Due Process and Ex Post Facto Clauses of the United States and Ohio Constitutions. This

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<sup>2</sup> 117 Ohio St.3d 420, 2008-Ohio-1197, 884 N.E.2d 568, at ¶24-30.

<sup>3</sup> *Hernandez v. Kelly*, 108 Ohio St.3d 395; 2006-Ohio-126, 844 N.E.2d 301, ¶18-20, citing *State v. Jordan*, 104 Ohio St.3d 21, 2004-Ohio-6085, 817 N.E.2d 864, and *Woods v. Telb*, 98 Ohio St.3d 504, 2000-Ohio-171, 733 N.E.2d 1103.

court has already rejected similar constitutional challenges to H.B. No. 137, and we hold that Satterfield's arguments are meritless based upon this precedent.<sup>4</sup>

Accordingly, we reject Satterfield's constitutional challenges and overrule the second assignment of error.

Satterfield's third assignment of error involves a two-step argument. First, he alleges that in 1997 the trial court failed to notify him of the specific prison term that it would impose if he violated the terms of his community control and, therefore, that the court was precluded from imposing a prison term for his community-control violation. Second, he argues that because of this, his cumulative sentence could have been no more than eight years, and that the trial court's imposition of post-release control after he had served more than eight years was untimely and void.

Under the sentencing statutes, a trial court sentencing an offender to a community-control sanction must, at the time of the sentencing, notify the offender of the specific prison term that may be imposed for a violation of the conditions of the sanction, as a prerequisite to imposing a prison term on the offender for a subsequent violation.<sup>5</sup> The court is required to deliver the statutorily detailed notifications at the sentencing hearing.<sup>6</sup>

Although Satterfield complains that he did not receive this notification when community control was imposed in the case numbered B-09705508 at his 1997 sentencing hearing, he has failed to make the transcript from this sentencing hearing a

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<sup>4</sup> *State v. Bankhead*, 1st Dist. No. C-060480, 2007-Ohio-1314, at ¶11-14, overruled in part on other grounds by *State v. White*, 1st Dist. No. C-060842, 2007-Ohio-6335, at ¶6; *State v. Ryan*, 172 Ohio App.3d 281, 2007-Ohio-3092, 874 N.E.2d 853, at ¶17-19. See, also, *State v. Simpkins*, supra (stating that the defendant, who was represented by counsel, had no reasonable, legitimate expectation in the finality of an unlawful and void sentence.)

<sup>5</sup> R.C. 2929.19(B)(5) and 2929.15(B); *State v. Brooks*, 103 Ohio St.3d 134, 2004-Ohio-4746, 814 N.E.2d 837, paragraph two of the syllabus.

<sup>6</sup> R.C. 2929.19(B)(5); *Brooks*, supra, at paragraph one of the syllabus.

part of the record, contrary to the mandate of App.R. 9(B). In the absence of the transcript necessary to demonstrate the error, we presume regularity in the trial court proceedings.<sup>7</sup>

Thus, the record before us does not manifest any error in the court's imposition of an 11-month sentence for the community-control violation. Moreover, the record does not demonstrate that the court's imposition of post-release control in 2007 was untimely and void, where the court imposed post-release control before Satterfield had completed his term of incarceration.<sup>8</sup> Therefore, we overrule the assignment of error.

Accordingly, we affirm the trial court's judgment.

Further, a certified copy of this Judgment Entry shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R.24.

**HILDEBRANDT, P.J., HENDON and CUNNINGHAM, JJ.**

*To the Clerk:*

Enter upon the Journal of the Court on June 4, 2008

per order of the Court \_\_\_\_\_.  
Presiding Judge

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<sup>7</sup> *Knapp v. Edward Laboratories* (1980), 61 Ohio St.2d 197, 400 N.E.2d 384.

<sup>8</sup> *Simpkins*, supra, syllabus.